

REMARKS

Status of Claims

The Office Action mailed September 24, 2003 has been reviewed and the comments of the Patent and Trademark Office have been considered. Claims 1-9 were pending in the application. Claims 4-6 and 9 have been amended and no claims have been canceled or newly added. Therefore, claims 1-9 are pending in the application and reconsideration is respectfully requested.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, are presented, with an appropriate defined status identifier.

Please note that claim 9 has been amended only to improve its readability and not to narrow its scope in any way.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 4-6 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In reply, applicants have amended these claims to address the issues raised in the Office Action and submit that these claims are now in definite form and meet the requirements of § 112, second paragraph.

Rejections under 35 U.S.C. § 102 and § 103

In the Office Action, claims 1-5 and 7-9 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,621,304 to Kiuchi et al. (hereafter "Kiuchi"). Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kiuchi in view of U.S. patent No. 6,573,675 to Schmitz et al. (hereafter "Schmitz"). Applicants respectfully traverse these rejections for at least the following reasons

Each of the independent claims 1, 8, and 9 recites, *inter alia*, computing an available output from a battery based on the target motor power. The available output from the battery is then used to compute a target generated power which is then used to control the generating device. This recited feature is not disclosed or suggested by the applied prior art.

Specifically, the Office Action alleges that this feature is disclosed in Kiuchi by citing to the motor energy supply controller 5. However, in this regard, Kiuchi calculates an effective maximum output of the battery 3 based on the current/voltage characteristics of the

battery 3. See col. 6, lines 55-64 of Kiuchi. That is, Kiuchi does not disclose or suggest the claimed computing of an available output from a battery based on the target *motor* power.

The power which can be output from the battery varies according to the voltage applied to the motor (which of course is proportional to the target motor power), and it decreases when the voltage applied to the motor becomes high. Therefore, if the target generated power were decreased ignoring this fact as disclosed in Kiuchi, then when the voltage applied to the motor becomes high, it gives rise to the problem that the power becomes insufficient.

The claimed invention prevents such a situation by computing an available battery output based on the target motor power and computing a target generated power considering the available battery output. See, for example, paragraphs [0050] and [0051] in the specification. Since this deficiency in Kiuchi is not cured by any of the other applied references, the pending claims are patentable over the applied references.

The dependent claims are also patentable for at least the same reasons as the respective independent claims on which they ultimately depend. In addition, they recite additional patentable features when considered as a whole. For example, claim 6 recites that the controller further functions to compute the available battery output such that the computed available battery output decreases as the battery temperature decreases. This recited feature is also not disclosed or suggested by the applied prior art, when considered as a whole, and provides an additional reason for the patentability of this claim.

Conclusion

In view of the foregoing amendments and remarks, applicants respectfully submit that the application is now in condition for allowance. An early notice to this effect is earnestly solicited. If there are any questions regarding the application, or if an examiner's amendment would facilitate the allowance of one or more of the claims, the examiner is invited to contact the undersigned attorney at the local telephone number below.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicants hereby petition for any needed extension of time.

Respectfully submitted,

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